

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1434

IN THE MATTER OF:

Application of BELTWAY)	
LIMOUSINE SERVICE, INC.,)	Served May 30, 1975
for Certificate of)	
Public Convenience and)	Application No. 849
Necessity)	
	Docket No. 278

PERTINENT BACKGROUND

By Order No. 1425, served May 12, 1975, Beltway Limousine Service, Inc., (Beltway), was granted Certificate of Public Convenience and Necessity No. 25, authorizing irregular route special operations between Dulles International Airport or Washington National Airport, on the one hand, and on the other, certain specified points in Montgomery and Prince George's Counties, Maryland. Also by Order No. 1425, Beltway was directed to file, pursuant to the authority therein granted, WMATC Tariff No. 1, no later than May 19, 1975 to be effective May 21, 1975. Finally, Order No. 1425 terminated, effective May 21, 1975, the temporary authority under which Beltway had been operating pursuant to Order No. 1399, served January 22, 1975.

In Order No. 1425, the Commission considered the tariff rates proposed by Beltway ^{1/} for the operations which were authorized in that order. Projecting revenues and revenue deductions, the Commission determined that the proposed rates would result in a return on gross operating revenues, after taxes, of 17.4 percent, and found the proposed rates to be unjust and unreasonable.

^{1/} The tariff rates proposed by Beltway were identical to those under which Beltway had been operating pursuant to temporary authority.

Therefore, in accord and with the Compact, Title II, Article XII, Section 6(a)(2), the Commission prescribed the lawful rates, rates lower than those proposed by Beltway. The rates prescribed by the Commission were found to result in a return on gross operating revenues, after taxes, of approximately 8 percent which the Commission concluded to be just, reasonable and not unduly preferential or unduly discriminatory, either between riders or sections of the Metropolitan District.

BELTWAY'S PETITION FOR RECONSIDERATION

Beltway failed to file WMATC Tariff No. 1 by May 19, 1975, as required. Rather, on May 20, 1975, Beltway filed a Petition for Reconsideration of Order No. 1425. The Compact, Title II, Article 12, Section 16, states inter alia, as follows:

Any person affected by any final order or decision of the Commission may, within thirty days after the publication thereof, file with the Commission an application in writing requesting a reconsideration of the matters involved, and stating specifically the errors claimed as grounds for such reconsideration.

The filing of an application for reconsideration acts as a stay upon the execution of the order until final action of the Commission. The effect in this instance is that, upon filing for reconsideration, Beltway's operating authority and rates reverted to those specified in Order No. 1399 granting temporary authority, and will so remain until disposition of its Petition for Reconsideration.

Beltway, in its Petition for Reconsideration "requests that reconsideration only be given to the rates prescribed by the Commission", and states that the Commission erred in prescribing a tariff different than that tariff filed by Beltway pursuant to its grant of temporary authority by Order No. 1399. Beltway asserts that "if it is required to operate pursuant to the tariff contained in Order No. 1425, substantial and irreparable harm will be done to the economic viability of Beltway".

In support of its position, Beltway maintains that it is "presently preparing figures showing its profit and loss while operating under temporary authority", and that it "believes that such figures will show a very minimal profit". (Emphasis added.) Beltway requests that it be allowed ten days to file such profit and loss statement.

DISCUSSION AND CONCLUSIONS

Beltway's assertion is speculative that new and updated figures will show the company is now less profitable than it was at the time it presented its evidence and its case in support of this application. At the time of filing its Petition for Reconsideration, the data were, even then, unprepared or incomplete, and Beltway based its Petition for Reconsideration upon its belief that the results would show a very minimal profit.

The Commission's prescription of rates, on the other hand, was based upon an analysis of the data and figures prepared and submitted on the record by Beltway.

Beltway's sole assertion of error, that the Commission erred in prescribing a tariff different than that filed by Beltway pursuant to its grant of temporary authority by Order No. 1399, is wholly without foundation. First, there is no requirement that any permission granted under temporary authority be perpetuated. In fact, the section of the Compact 2/ dealing with temporary authority specifically admonishes that it shall "create no presumption that corresponding permanent authority will be granted thereafter". Second, the Commission is affirmatively charged by the Compact 3/ with the duty to establish reasonable fares:

Whenever, upon complaint, or upon its own initiative, and after hearing held upon reasonable notice, the Commission finds that any individual or joint fare in effect for transportation subject to this Act, or any regulation or practice affecting such fare, is unjust, unreasonable or unduly preferential or unduly discriminatory, the Commission shall issue an order prescribing the lawful fare, regulation, or practice thereafter to be in effect.

2/ Compact, Title II, Article XII, Section 4(d)(3).

3/ Compact, Title II, Article XII, Section 6(b).

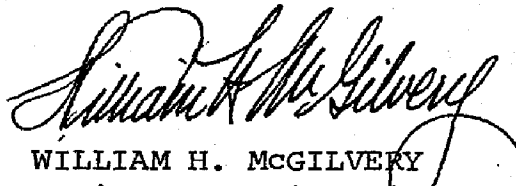
The Commission must, therefore, conclude that the Petition for Reconsideration filed by Beltway is without merit and that it provides no basis for reconsideration of the Commission's decision in Order No. 1425.

One matter remains. If Beltway's belief is correct that its financial picture has changed since it presented its case, it seems clear that Beltway's remedy would lie in the Compact, Title II, Article XII, Section 5(e), which states:

Any carrier which desires to change any fare specified in a tariff filed by it under this section, or any regulation or practice specified in any such tariff affecting such a fare, shall file a tariff in compliance with this section, showing the change proposed to be made and shall give notice to the public of the proposed change by posting and filing such tariff in such manner as the Commission may by rule, regulation or order provide. Each tariff filed under this subsection shall state a date on which the new tariff shall take effect, and such date shall be at least thirty (30) days after the date on which the tariff is filed, unless the Commission by order authorizes its taking effect on an earlier date.

THEREFORE, IT IS ORDERED that the Petition for Reconsideration of Order No. 1425 filed May 20, 1975 by Beltway Limousine Service, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVER
Acting Executive Director